



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES

MARGARET M. O'NEILL BUILDING
410 FEDERAL STREET, SUITE 1
DOVER, DE 19901

VOICE: (302) 739-3620
TTY/TDD: (302) 739-3699
FAX: (302) 739-6704

MEMORANDUM

DATE: November 20, 2009

TO: Ms. Sharon L. Summers, DSS
Policy, Program & Development Unit

FROM: Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: 13 DE Reg. 580 [DSS Food Supplement Program Census Income Disregard Regulation]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Social Services (DSSs) proposal to amend Food Supplement Program regulations published as 13DE Reg.580 in the November 1, 2009 issue of the Register of Regulations. As background, in March 2009, DMMA proposed to adopt a regulation disregarding income attributable to census employment in the Medicaid and CHIP programs. DMMA noted that CMS was encouraging states to adopt such an exemption [12 DE Reg. 1153 (March 1, 2009)]. The SCPD endorsed that regulation which was adopted in May. [12 DE Reg. 1416 (May 1, 2009)]. The Division of Social Services ("DSS") now proposes to adopt a similar income exemption applicable to the Food Supplement Program. This is consistent with historical practice. The existing regulation contains an exemption for income derived from census employment in the year 2000. The proposed regulation also effects some minor revisions to the disregard for home weatherization payments.

SCPD endorses the proposed regulation subject to one suggestion. The DMMA regulation notes that "Local Census Offices will require some staff from the fall of 2008 through the end of 2010." At 12 DE Reg 1416. [emphasis supplied] The current regulation included an exemption for census income until December 31, 2000. At 13 DE Reg. 583. The DSS regulation proposes a September 30, 2010 cut-off. It may be preferable to adopt a December 31, 2010 cut-off for the following reasons: 1) if there is any short extension of the census project, DSS would not have to issue another regulation; 2) it would obviate any ambiguity in application of the disregard if paychecks were received in October or November of 2010; and 3) it would apply the disregard to work done in October, November, or December, i.e., "through the end of 2010".

If DSS were disinclined to adopt such an amendment, it could at least consider the following alternative standard to obviate the prospect of issuing another regulation if the Census 2010 Project is extended:

The earnings of temporary census workers from the Bureau of Census are excluded for the Census 2010 Demonstration Project. This exclusion will apply through the scheduled conclusion of the project on September 30, 2010 and any Project extensions

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations or recommendations on the proposed regulation.

cc: Ms. Elaine Archangelo
Mr. Brian Hartman, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

13reg580 dss-food supp